

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

GREGORY MARTINEZ,

Plaintiff,

v.

Civ. No. 16-1223 GJF

NANCY A. BERRYHILL, *Acting  
Commissioner of the Social Security  
Administration,*

Defendant.

**ORDER DISMISSING CASE WITHOUT PREJUDICE**


THIS MATTER is before the Court on a review of the docket. On August 21, 2017, the Court issued an Order to Show Cause (“Order”) [ECF No. 28], which directed Plaintiff to respond in writing not later than August 31, 2017, as to why this case should not be dismissed for Plaintiff’s repeated failures to comply with orders of the Court. The Order cautioned Plaintiff that his failure to show cause “will serve as grounds for dismissing this case without prejudice.” ECF No. 28. Nonetheless, and despite this clear warning, Plaintiff filed nothing by August 31, 2017, or since.

The Court cannot ignore this failure. Under circuit precedent, a district court may sua sponte dismiss an action for “fail[ure] . . . to comply with . . . any order of court.” *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003) (quoting Fed. R. Civ. P. 41(b)). Further, a district court may dismiss an action without prejudice “without attention to any particular procedures.” *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1162 (10th Cir. 2007). Furthermore, this is at least Plaintiff’s *third* instance of failing to comply with the Court’s orders. Plaintiff was ordered to file his Motion to Reverse or Remand no later than August 18, 2017. *See* ECF No. 22. He failed to comply. He was ordered to participate in a telephonic

status conference scheduled for August 21, 2017. *See* ECF No. 27. He failed to participate. And now he has failed to comply with an order to show cause.

Based on Plaintiff's failure to comply with the foregoing deadlines and responsibilities, despite being expressly warned of the consequences of non-compliance, the Court **ORDERS** that the instant matter be **DISMISSED WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**



---

THE HONORABLE GREGORY J. FOURATT  
UNITED STATES MAGISTRATE JUDGE  
**Presiding by Consent**